

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ANDREA L.,

Plaintiff,

vs.

KILOLO KIJAKAZI, Acting  
Commissioner of the Social Security  
Administration;

Defendant.

**4:21CV3120**

**MEMORANDUM  
AND ORDER**

Plaintiff requests an award of attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, totaling \$4,994.56. (Filings 29-31) In support of this request, Plaintiff itemizes 8.3 hours of attorney work in 2020 and 2021 and 41.9 hours of paralegal work in 2021 and 2022. (Filing 31) Plaintiff requests an attorney hourly rate of \$223.14,<sup>1</sup> and a paralegal hourly rate of \$75.00. (Filing 31) Defendant, without conceding whether \$223.14 is the appropriate hourly rate for attorney work, has no objection to an EAJA award of \$4,994.56 in this case. (Filing 32)

The court has determined that Plaintiff was the prevailing party in this action, as the Commissioner's decision was reversed and the matter was remanded for further proceedings; the position of the Commissioner was not substantially justified because the administrative law judge failed to address all medical source opinions in the record; the application for fees was filed in a timely fashion; Plaintiff's net worth did not exceed two million dollars when the action was filed; and no special circumstances make an award unjust. Plaintiff therefore is entitled to an award of reasonable attorney fees. Considering all relevant circumstances, the court finds the amount requested by Plaintiff is reasonable. An award of fees under the EAJA is

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<sup>1</sup> The hourly rate for attorney work was calculated by multiplying the \$125 unadjusted statutory maximum, *see* 28 U.S.C. § 2412(d)(1)(D)(2)(A), times 178.515 percent to account for inflation since March 1996. (Filing 31, ¶ 9)

payable to Plaintiff, not her attorney, *see Astrue v. Ratliff*, 560 U.S. 586, 589-98 (2010), but as a matter of practice an EAJA fee award made payable to Plaintiff may properly be mailed to Plaintiff's counsel.

IT IS THEREFORE ORDERED:

1. Plaintiff's Motion for Award of Attorney Fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) (Filing 29) is granted.
2. By separate document, the court shall enter judgment for Plaintiff and against Defendant providing that Plaintiff is awarded attorney fees of \$4,994.56.
3. That sum shall be sent to Plaintiff's counsel, Ms. Mangiameli, who shall be responsible for remitting to Plaintiff her portion of the award.

Dated this 9th day of February, 2022.

BY THE COURT:

*Richard G. Kopf*  
Richard G. Kopf  
Senior United States District Judge